

AMENDMENT IN THE NATURE OF A SUBSTITUTE

TO H.R. 1461

OFFERED BY MR. BANKS

Strike all after the enacting clause and insert the following:

1 SECTION 1. SHORT TITLE.

2 This Act may be cited as the “Veterans, Employees,
3 and Taxpayers Protection Act of 2017” or the “VET Pro-
4 tection Act of 2017”.

**5 SEC. 2. LABOR MANAGEMENT IN DEPARTMENT OF VET-
6 ERANS AFFAIRS.**

7 (a) IN GENERAL.—Chapter 7 of title 38, United
8 States Code, is amended by adding at the end the fol-
9 lowing new subchapter:

10 “SUBCHAPTER III—LABOR MANAGEMENT

11 “§ 741. Records on use of official time

12 “(a) TRACKING OF OFFICIAL TIME.—The Secretary
13 shall track the use of official time by employees of the
14 Department of Veterans Affairs in a manner that accounts
15 for such time accurately and to a specific degree without
16 the use of estimates or ranges of time.

17 “(b) ANNUAL REPORT.—(1) Not later than Decem-
18 ber 31 of each year, the Secretary shall submit to the Of-

1 fice of Personnel Management and the Committees on
2 Veterans' Affairs of the House of Representatives and the
3 Senate a report on the use of official time by employees
4 of the Department during the most recently ended fiscal
5 year.

6 “(2) Each report under paragraph (1) shall include,
7 with respect to the fiscal year covered by the report, the
8 following information:

9 “(A) The total amount of official time granted
10 to employees.

11 “(B) The total amount of official time expended
12 and the amount of official time expended per em-
13 ployee for term negotiations, mid-term negotiations,
14 general labor-management relations, and dispute
15 resolution.

16 “(C) The specific types of activities or purposes
17 for which official time was granted, and the impact
18 which the granting of such official time for such ac-
19 tivities or purposes had on the operations of the De-
20 partment.

21 “(D) The total number of employees to whom
22 official time was granted, and, of that total, the
23 number who were not engaged in any activities or
24 purposes except activities or purposes involving the
25 use of official time.

1 “(E) The total annual salary, job title, and
2 amount of official time afforded to any employee.

3 “(F) A description of any room or space des-
4 ignated at the Department where official time activi-
5 ties will be conducted, including the square footage
6 of any such room or space.

7 “(G) A list of any employee granted a waiver
8 under section 742(d) and justification for each such
9 waiver.

10 “(c) DEFINITION OF OFFICIAL TIME.—For purposes
11 of this section, the term ‘official time’ means any period
12 of time—

13 “(1) which may be granted to an employee
14 under chapter 71 of title 5 (including a collective
15 bargaining agreement entered into under such chap-
16 ter) or chapter 74 of this title to perform represen-
17 tational or consultative functions; and

18 “(2) during which the employee would otherwise
19 be in a duty status.

20 **“§ 742. Limitations on use of official time for certain**
21 **purposes and individuals**

22 “(a) POLITICAL ACTIVITIES AND LOBBYING.—Not-
23 withstanding section 7131 of title 5 or any other provision
24 of law, any employee of the Department may not use offi-

1 cial time to carry out political activities or activities relat-
2 ing to lobbying.

3 “(b) PROHIBITION ON USE OF OFFICIAL TIME BY
4 CERTAIN EMPLOYEES.—The following employees of the
5 Department may not use official time for any purpose:

6 “(1) Any employee appointed under section
7 7401(1).

8 “(2) Any employee with an annual rate of basic
9 pay equal to or greater than \$100,000.

10 “(3) Any employee who is serving a proba-
11 tionary period.

12 “(c) LIMITATION ON ALL EMPLOYEES.—Any em-
13 ployee of the Department not covered by subsection (b)
14 may spend no more than 25 percent of the time such em-
15 ployee would otherwise be in a duty status on official time.

16 “(d) WAIVER.—(1) The Secretary may waive the re-
17 quirements of subsection (b) or (c) with respect to an em-
18 ployee of the Department if the Secretary certifies, in writ-
19 ing, that the waiver is reasonable, necessary, and in the
20 best interests of veterans.

21 “(2) The authority provided to the Secretary under
22 this subsection shall not be subject to bargaining under
23 this title or chapter 71 of title 5, and the exercise of, or
24 failure to exercise, such authority shall not be an unfair
25 labor practice under this title or such chapter.

1 “(e) DEFINITION OF OFFICIAL TIME.—For purposes
2 of this section, the term ‘official time’ has the meaning
3 given that term in section 741(c).

4 **“§ 743. Termination of collection of dues**

5 “Notwithstanding section 7115 of title 5, any exclu-
6 sive bargaining agreement entered into pursuant to chap-
7 ter 71 of such title by the Department shall provide that
8 an employee of the Department may terminate a voluntary
9 allotment for the payment of dues at any time. Any deduc-
10 tions for dues made pursuant to such allotment shall cease
11 beginning on the first pay period after the termination is
12 made.”.

13 (b) APPLICABILITY.—Sections 742 and 743 of title
14 38, United States Code, as added by subsection (a), shall
15 apply with respect to any collective bargaining agreement
16 entered into before, on, or after the date of enactment of
17 this Act.

18 (c) CLERICAL AMENDMENT.—The table of sections
19 at the beginning of such chapter is amended by adding
20 at the end the following:

“SUBCHAPTER III—LABOR MANAGEMENT

“741. Records on use of official time.

“742. Limitations on use of official time for certain purposes and individuals.

“743. Termination of collection of dues.”.

1 **SEC. 3. REQUIRED PROBATIONARY PERIOD FOR NEW EM-**
2 **PLOYEES OF DEPARTMENT OF VETERANS AF-**
3 **FAIRS.**

4 (a) PROBATIONARY PERIOD.—

5 (1) IN GENERAL.—Chapter 7 of title 38, United
6 States Code, is further amended by inserting after
7 section 717 the following new section:

8 **“§ 719. Probationary period for employees**

9 “(a) IN GENERAL.—Notwithstanding sections 3321
10 and 3393(d) of title 5, the appointment of a covered em-
11 ployee shall become final only after such employee has
12 served a probationary period of 2 years.

13 “(b) COVERED EMPLOYEE.—In this section, the term
14 ‘covered employee’—

15 “(1) means any individual—

16 “(A) appointed to a permanent position
17 within the competitive service at the Depart-
18 ment; or

19 “(B) appointed as a career appointee (as
20 that term is defined in section 3132(a)(4) of
21 title 5) within the Senior Executive Service at
22 the Department; and

23 “(2) does not include any individual with a pro-
24 bationary period prescribed by section 7403 of this
25 title.

1 “(c) PERMANENT HIRES.—Not later than 90 days
2 before the expiration of a covered employee’s probationary
3 period under subsection (a), the supervisor of the em-
4 ployee shall determine whether the appointment becomes
5 final based on regulations prescribed for such purpose by
6 the Secretary.

7 “(d) APPLICATION.—With respect to any individual
8 described in subsection (b)(1)(A) and to whom this section
9 applies, sections 7501(1) and 7511(a)(1)(A)(ii) of title 5
10 shall be applied to such individual by substituting ‘com-
11 pleted 2 years’ for ‘completed 1 year’ in each instance it
12 appears.”.

13 (2) CLERICAL AND CONFORMING AMEND-
14 MENTS.—

15 (A) CLERICAL.—The table of sections at
16 the beginning of such chapter, as amended by
17 section 2, is further amended by inserting after
18 the item relating to section 717 the following
19 new item:

“719. Probationary period for employees.”.

20 (B) CONFORMING.—Title 5, United States
21 Code, is amended—

22 (i) in section 3321(c)—

23 (I) by striking “Service, or” and
24 inserting “Service,”; and

1 (II) by inserting at the end be-
2 fore the period the following: “, or
3 any individual covered by section 719
4 of title 38”;

5 (ii) in section 3393(d), by inserting at
6 the end before the period the following: “or
7 section 719 of title 38”;

8 (iii) in sections 7501(1) and
9 7511(a)(1)(A)(ii), by inserting “or section
10 719 of title 38” after “title 10” in each in-
11 stance it appears; and

12 (iv) in section 7541(1)(A)—

13 (I) by striking “title or” and in-
14 serting “title,”; and

15 (II) by inserting at the end be-
16 fore the semi-colon the following: “, or
17 section 719 of title 38”.

18 (b) APPLICATION.—Section 719 of title 38, United
19 States Code, as added by subsection (a)(1), shall apply
20 to any covered employee (as that term is defined in sub-
21 section (b) of such section 719, as so added) appointed
22 after the date of the enactment of this Act.

